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Memorandum:

To: Agencies and Entities Filing Contracts with the Government Contract Review Committee

From: Kim M. Eisner, Committee Staff Administrator
Government Contract Review Committee

Re: Contracts with Foreign (out-of-state) Corporations

Date: June 18, 2010

The Government Contract Review Committee has directed committee staff to inform all agencies and entities filing contracts with the committee that it will not consider any contract between an agency and an out-of-state corporate contractor that is not properly registered with the Kentucky Secretary of State or, if appropriate, the Department of Revenue. Foreign Corporations are required to register with the Secretary of State pursuant to KRS 271B.15-010. That statute states “[a] foreign corporation...shall not transact business in this state until it obtains a certificate of authority from the Secretary of State.” The requirements for registration with the Department of Revenue are found at KRS 45A.067.

Up to this point, contracts between agencies and unregistered foreign corporations have been deferred by the committee until such time as the corporate contractor complies with the registration requirements. The committee has indicated that agencies are subject to having their contracts disapproved if their foreign corporate contractors fail to comply after several months of the committee deferrals.

The effect of a deferral means no payments may be made on a contract until such time as the contract is reviewed by the committee. If a contract is disapproved, the contract is cancelled unless the Secretary of the Finance Cabinet overrides the committee’s decision.

Agencies and entities are responsible for alerting committee staff of changes to a foreign corporation’s registration status. Please direct any questions regarding registration requirements to the Office of the Secretary of State or the Department of Revenue.